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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,985	09/26/2000	Hanumant K. Yadav	MS1-615US	4395

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EXAMINER

DAS, CHAMELI

ART UNIT PAPER NUMBER

2122

DATE MAILED: 12/24/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/670,985

Applicant(s)

YADAV, HANUMANT K.

Examiner

C.DAS

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-31 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kullick, US 5,732,275

As per claims 1, 17, 24, 25, Kullick discloses:

- a program module update system... computer executable instruction (kullick, abstract, col 3 lines 57-67 and col 4 lines 1-2, col 4 lines 65-67, col 5 lines 1-7)
- a determination unit for determining ... updated program module (col 6 lines 10-17, col 8 lines 31-38)
- a source redirection unit for specifying a source locus ... determination unit (col 5 lines 33-48).

As per claims 2,18, Kullick discloses:

- a list generator ... updated module (col 4 lines 37-50).

For claims 3, 19, (Kullick, col 4 lines 50-58, col 6 lines 10-17).

For claims 4, 12, 20, (Kullick, col 3 lines 30-35).

For claims 5, 13, 21, (Kullick, col 6 lines 18-40).

For claims 6, 14, 22, (Kullick, col 1 lines 6-11, col 3 lines 25-42).

For claims 7, 15, (Kullick, abstract, col 2 lines 40-45).

For claims 8, 16, (Kullick, col 1 lines 6-10, col 3 lines 43-60).

For claim 9, (Kullick, col 3 lines 44-56).

For claim 10, (Kullick, abstract, col 3 lines 57-67 and col 4 lines 1-2, col 4 lines 65-67, col 5 lines 1-7, col 6 lines 10-17, col 8 lines 31-38, col 5 lines 33-48, col 4 lines 50-58, col 6 lines 10-17).

For claim 11, (Kullick, abstract, col 3 lines 57-67 and col 4 lines 1-2, col 4 lines 65-67, col 5 lines 1-7, col 6 lines 10-17, col 8 lines 31-38, col 5 lines 33-48, col 4 lines 50-58, col 6 lines 10-17).

For claim 23, (Kullick, col 10 lines 12-15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 - 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kullick, US 5,732,275 and further in view of Curtis, US 6,442,754.

For claim 26, Kullick discloses obtaining a list of program-module, hardware-specific program module, identifying a source locus where the module is stored, examining the list, updated program module, modifying the program module (Kullick, abstract, col 3 lines 57-67 and col 4 lines 1-2, col 4 lines 65-67, col 5 lines 1-7, col 6 lines 10-17, col 8 lines 31-38, col 5 lines 33-48).

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Kullick does not specifically disclose the data structure associated with the program module. However, Curtis discloses the data structure associated with the program module as claimed (Curtis, Abstract, col 13 lines 7-27). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of invention was made to incorporate the teaching of Curtis into the method of Kullick. The modification would be obvious because one of the ordinary skill in the art would be motivated to maintain the components of the program in a organized manner.

For claim 27, (Kullick, col 4 lines 50-58, col 6 lines 10-17) and (Curtis, Abstract, col 13 lines 7-27).

For claim 28, **(Kullick, col 3 lines 30-35,) and (Curtis, Abstract, col 13 lines 7-27).**

For 29, (Kullick, col 6 lines 18-40), and (Curtis, Abstract, col 13 lines 7-27).

For claim 30, (Kullick, col 1 lines 6-11, col 3 lines 25-42), and (Curtis, Abstract, col 13 lines 7-27).

For claim 31, (Kullick, col 10 lines 12-15).

5. The prior art made or record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Technique for bootstrapping executable code to an adapter, US 5870609 A

TITLE: Platform intelligent installer, US 6513159 B1

TITLE: Method of operating a data processing system having a dynamic software update facility, US 5359730 A

TITLE: Method and system for updating read-only software modules, US 6637023 B1

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TITLE: Method and system for downloading updates for software installation, US

6493871 B1

TITLE: Method and system for installing software on a computer system, US 6618857

TITLE: Method and apparatus for automatic software replacement, US 5764992 A .

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 703-305-4552. The fax number for this group are:

(703) 872-9306 (official fax), (703) 746-7240 (non-official/draft), (703)746 -7238 (after final).

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.



Chameli C. Das

Primary Patent Examiner

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12/17/03